

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 01-455-A
)	
ZACARIAS MOUSSAOUI)	
a/k/a "Shaqil,")	
a/k/a "Abu Khalid)	
al Sahrawi,")	
)	
Defendant.)	

ORDER

On June 21, 2002, the defendant filed two pro se pleadings objecting to a witness deposition scheduled for 1:00 p.m. on June 24, 2002 (Docket #s 203 and 210). The defendant complains that he has not had enough time to prepare for the deposition because the discovery material concerning that witness was turned over to him on June 20, 2002, and because the United States filed a Superseding Indictment on June 19, 2002. He further requests additional time to consult with his legal advisor, Mr. Charles Freeman. The defendant also opposes the presence of his stand-by counsel at the deposition and complains that the Special Administrative Measures will prevent Mr. Freeman from being at the deposition to assist him. The same issues are raised in an "Emergency Motion to Stop the Interference and Manipulation of My Right to Defend Myself Pro Se" (Docket # 212) filed on June 24, 2002.

The United States has filed its response in which they argue

that denying these motions to postpone the deposition will not prejudice Mr. Moussaoui because the defendant is in receipt of copies of the witness' plea agreement as well as the FBI 302 reports to which the defendant is not legally entitled before the witness testifies.¹ The United States also points out that the Superseding Indictment does not affect the scope of the witness' testimony, which is expected to deal with the formation of the "Hamburg cell" in Germany.

Based on the response of the United States, we find that the defendant will not be prejudiced by having to take the witness' deposition as scheduled. Therefore, his motions to postpone the deposition are DENIED.

As for the defendant's request to exclude stand-by counsel from today's deposition, as long as the defendant conducts himself appropriately, he may cross-examine the witness and his stand-by counsel will not question the witness. However, because this deposition may be the only opportunity to question the witness, if the defendant refuses to participate in the process, his stand-by counsel may cross-examine the witness. Any cross-examination questions and answers of the witness taken in this default mode may not be used by the United States, but may be used by the defendant at his discretion. For these reasons, the

¹The defendant would have been able to review these FBI reports weeks ago when discovery was turned over to his counsel if he had been willing to cooperate with them.

defendant's requests to bar stand-by counsel from the deposition are DENIED.

Charles Freeman is not licensed to practice law in the Commonwealth of Virginia, has not been admitted to practice before this court pro hac vice, and has not entered his appearance in this case. He, therefore, is not permitted at the deposition. Therefore, the defendant's requests to have Mr. Freeman present are DENIED.

Because witness names in criminal cases normally are not disclosed before trial and the United States filed its motion scheduling this deposition under seal, it is hereby

ORDERED that no persons aware of this deposition, including the defendant and Mr. Freeman, are to divulge the name of the witness without leave of Court.

The Clerk is directed to forward copies of this Order to the defendant, pro se; counsel for the United States; stand-by defense counsel; Charles Freeman, Esq.; the Court Security Officer; and the United States Marshal.

Entered this 24th day of June, 2002.

/s/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia